

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

RANDI HANDWERK, on behalf of
himself individually and all others
similarly situated,

Plaintiff,

v.

BAYER CROPSCIENCE LP, et al,

Defendants.

DAN FLATEN, on behalf of
himself individually and all others
similarly situated,

Plaintiff,

v.

BAYER CROPSCIENCE LP, et al,

Defendants.

LEON PFAFF, on behalf of
himself individually and all others
similarly situated,

Plaintiff,

v.

BAYER CROPSCIENCE LP, et al,

Defendants.

Case No. 0:21-cv-00351-MJD-TNL

Case No. 0:21-cv-00404-MJD-TNL

Case No. 0:21-cv-00462-MJD-TNL

B. CARLSON, on behalf of himself individually and all others similarly situated,	Case No. 0:21-cv-00475-MJD-TNL
Plaintiff, v. BAYER CROPSCIENCE LP, et al,	
Defendants. RYAN BROS., INC., on behalf of themselves and all others similarly situated,	Case No. 0:21-cv-00433-MJD-TNL
Plaintiff, v. BAYER CROPSCIENCE LP, et al, Defendants.	

EAGLE LAKE FARMS PARTNERSHIP, on behalf of itself individually and all others similarly situated,

Plaintiff,

v.

BAYER CROPSCIENCE LP, et al.,

Defendants.

BRAD DEKREY, on behalf of himself individually and all others similarly situated,

Plaintiff,

v.

BAYER CROPSCIENCE LP, et al.,

Defendants.

Case No. 0:21-cv-00543-MJD-TNL

Case No. 0:21-cv-00639-MJD-TNL

TYLER SCHULTZ, on behalf of himself individually and all others similarly situated, Plaintiff, v. BAYER CROPSCIENCE LP, et al., Defendants.	Case No. 0:21-cv-00681-MJD-TNL
HAPKA FARMS, INC. and AMY HAPKA, on behalf of themselves individually and all others similarly situated, Plaintiff, v. BAYER CROPSCIENCE LP et al., Defendants.	Case No. 0:21-cv-00685-MJD-TNL
BEEMAN BERRY FARM, LLC, individually and on behalf of all others similarly situated, Plaintiff, v. BAYER CROPSCIENCE LP, et al., Defendants.	Case No. 0:21-cv-00719-MJD-TNL

WUNSCH FARMS, individually and on behalf of all others similarly situated, Plaintiff, v. BAYER CROPSCIENCE LP, et al., <u>Defendants.</u>	Case No. 0:21-cv-00970-MJD-TNL
KENNETH BECK, on behalf of himself individually and all others similarly situated, Plaintiff, v. BAYER CROPSCIENCE LP, et al., <u>Defendants.</u>	Case No. 0:21-cv-00996-PJS-KMM

JOINT MOTION TO SET RESPONSE DEADLINES AND BRIEFING SCHEDULE¹

Plaintiffs Randi Handwerk, Dan Flaten, Ryan Brothers, Inc., Michael J. Ryan, Leon Pfaff, B. Carlson, Eagle Lake Farms Partnership, Brady DeKrey, Tyler Schultz, Hapka Farms, Inc., Amy Hapka, and Beeman Berry Farm, LLC (together, “Plaintiffs”) and Defendants GROWMARK, Inc. and GROWMARK FS, LLC, after consultation with all other Defendants in these actions,² who report that they support the relief sought, jointly request that the Court extend any current deadlines to answer or otherwise respond as set forth below.

1. On February 5, 2021, Randi Handwerk filed a complaint in the District of Minnesota, *Handwerk v. Bayer Cropscience, et al.*, 0:21-cv-00351-MJD-TNL (“*Handwerk*”). The *Handwerk* case was assigned to Judge Michael J. Davis and Magistrate Judge Tony N. Leung.

¹ This Joint Motion to Extend Response Deadlines is being filed contemporaneously in *Handwerk v. Bayer CropScience LP, et al.*, 0:21-cv-00351-MJD-TNL (D. Minn.); *Flaten v. Bayer CropScience LP, et al.*, 0:21-cv-00404-MJD-TNL (D. Minn.); *Ryan Bros., Inc., v. Bayer CropScience LP, et al.*, 0:21-cv-00433-MJD-TNL (D. Minn.); *Pfaff v. Bayer Cropscience, et al.*, 0:21-cv-00462-MJD-TNL (D. Minn.); *Carlson v. Bayer CropScience LP, et al.*, 0:21-cv-00475-MJD-TNL (D. Minn.); *Eagle Lake Farms Partnership v. Bayer CropScience LP, et al.*, 0:21-cv-00543-MJD-TNL (D. Minn.); *Dekrey v. Bayer CropScience LP, et al.*, 0:21-cv-00639-MJD-TNL (D. Minn.); *Schultz v. Bayer CropScience LP, et al.*, 0:21-cv-00681-MJD-TNL (D. Minn.); *Hapka Farms, Inc. and Amy Hapka v. Bayer CropScience LP et al.*, 0:21-cv-00685-MJD-TNL (D. Minn.); *Beeman Berry Farm, LLC v. Bayer CropScience LP et al.*, 0:21-cv-00719-MJD-TNL (D. Minn.); *Wunsch Farms, v. Bayer CropSciene LP, et al.*, 0: 21-cv-00970-MJD-TNL (D. Minn.); and *Kenneth Beck, v. Bayer CropScience, LP, et al.*, 0:21-cv-00996-PJS-KMM (D. Minn.).

² The other Defendants are: Bayer CropScience LP; Bayer CropScience, Inc.; Corteva Inc.; Cargill Incorporated; BASF Corporation; Syngenta Corporation; WinField Solutions, LLC; Univar Solutions, Inc.; Federated Co-operatives Ltd.; CHS Inc.; Nutrien Ag Solutions, Inc.; Simplot AB Retail Sub, Inc.; and Tenkoz, Inc.

2. Subsequently, a number of additional related cases have been filed in this District:

Flaten v. Bayer Cropscience, et al., 0:21-cv-00404-MJD-TNL (D. Minn.); *Ryan Bros., Inc., v. Bayer Cropscience, et al.*, 0:21-cv-00433-MJD-TNL (D. Minn.); *Pfaff v. Bayer Cropscience, et al.*, 0:21-cv-00462-MJD-TNL (D. Minn.); *Carlson v. Bayer Cropscience, et al.*, 0:21-cv-00475-MJD-TNL (D. Minn.); *Eagle Lake Farms Partnership v. Bayer Cropscience, et al.*, 0:21-cv-00543-MJD-TNL (D. Minn.); *Dekrey v. Bayer CropScience, et al.*, 0:21-cv-00639-MJD-TNL (D. Minn.); *Schultz v. Bayer Cropscience, et al.*, 0:21-cv-00681-MJD-TNL (D. Minn.); *Hapka Farms, Inc. and Amy Hapka v. Bayer Cropscience et al.*, 0:21-cv-00685-MJD-TNL (D. Minn.); *Beeman Berry Farm, LLC v. Bayer Cropscience et al.*, 0:21-cv-00719-MJD-TNL; *Wunsch Farms, v. Bayer CropScience LP, et al.*, 0:21-cv-00970-MJD-TNL (D. Minn.); and *Kenneth Beck, v. Bayer CropScience, LP, et al.*, 0:21-cv-00996-PJS-KMM (D. Minn.) (together with *Handwerk*, the “Class Action Cases”).

3. All of the Class Action Cases, except *Beck*, have been reassigned to the Honorable Michael Davis.

4. Defendants Bayer Cropscience LLP and Bayer Cropscience, Inc. (collectively “Bayer”) have filed or expect to file a motion (“1404(a) Motion”) to seek transfer of the Class Action Cases to the Eastern District of Missouri pursuant to a forum-selection clause that Bayer alleges is contained in its contracts with Plaintiffs in the Class Action Cases. Plaintiffs currently expect to oppose that motion.

5. The plaintiffs in the Class Action Cases have informed Defendants that they will file a consolidated amended complaint on or before April 21, 2021.

6. Additional cases have been filed in the District of Kansas, the Eastern District of Pennsylvania, the Southern District of Illinois, and the District of Idaho (“Related Cases”). The

plaintiffs in the Class Action Cases and in each of the Related Cases filed in the four other federal districts all seek to represent essentially the same classes of farmers asserting the same or similar claims. Bayer has filed or expects to file motions to seek transfer of certain of the Related Cases to the Eastern District of Missouri.

7. Plaintiffs in the Southern District of Illinois have filed a motion before the Judicial Panel on Multidistrict Litigation (“Panel”) seeking to transfer the Class Action Cases and the Related Cases to the Southern District of Illinois. That motion is now fully briefed and awaits argument on May 27 before, and decision by, the Panel.

8. All parties have agreed that the Class Action Cases and the Related Cases should be consolidated for pretrial purposes in a single district. All plaintiffs except the plaintiffs in the Southern District of Illinois have proposed that the cases be transferred to the District of Minnesota. Defendants have proposed that the cases be transferred either to the Eastern District of Missouri or to the District of Minnesota.

9. The parties anticipate that the Class Action Cases will ultimately be consolidated and coordinated, in the interest of justice, efficiency, and conservation of judicial resources. Plaintiffs and Defendants in the Class Action Cases have cooperated to put the cases largely onto a single schedule. Based on previous stipulations, the Defendants’ responses to the complaints, and the Plaintiffs’ responses to the 1404(a) motion, are due no earlier than May 5, 2021.

10. The parties have attempted to coordinate proceedings with the plaintiffs in the Related Actions in four other federal districts. The plaintiffs in three districts (Idaho, Kansas, and Eastern Pennsylvania) have cooperated in these efforts.

11. Defendants therefore filed a motion to stay cases in the Southern District of Illinois (“ILSD Cases”). The district court declined to stay proceedings. Based on a stipulation

among the parties, the district court ordered that Defendants' responses to the complaints be filed on or before April 27, 2021.

12. Because motion to dismiss briefing will proceed in the ILSD Cases, Plaintiffs and Defendants in the Class Action Cases have agreed that briefing should proceed in this District (but not in Kansas, Idaho, or Eastern Pennsylvania). Plaintiffs and Defendants have agreed upon the following schedule for filing of an amended complaint and responses to that complaint:

- Plaintiffs will file a consolidated amended complaint ("CAC") no later than April 21, 2021. The CAC will not include any new claims not already pleaded in the Class Action Cases filed on or before April 9, 2021.
- Defendants will file their responses to the CAC no later than May 5, 2021.
- Plaintiffs' opposition to any motion to dismiss shall be filed within 21 days thereafter.
- Defendants' replies shall be filed within 21 days thereafter.

13. Counsel will meet and confer on page limitations for briefing of the anticipated Rule 12 motions and submit a proposed order to the Court.

14. After the CAC has been filed, Bayer will determine whether to file a 1404(a) motion as to the CAC. If a CAC is filed on or before April 21, 2021, then all of Bayer's pending 1404(a) motions shall be deemed withdrawn without prejudice to refiling a single motion as to the CAC.

15. Defendants do not waive any defenses, and all parties reserve all rights.

WHEREFORE, for the reasons set forth above, this joint motion respectfully requests that the Court enter an order granting the relief requested above.

Dated: April 19, 2021

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